

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

ARCHIE MAXWELL,

Plaintiff,

v.

16-CV-244
ORDER

UNITED STATES OF AMERICA,

Defendant.

On March 24, 2016, the plaintiff commenced this action, seeking damages for alleged medical malpractice and negligent infliction of emotional distress. Docket Item 1. On February 23, 2018, this Court referred this case to United States Magistrate Judge Hugh B. Scott for all proceedings under 28 U.S.C. § 636(b)(1)(A) and (B). Docket Item 19. On February 15, 2018, the defendant moved for summary judgment, Docket Item 17; on March 23, 2018, the plaintiff responded, Docket Item 21; and on April 5, 2018, the defendant replied, Docket Item 22. On May 3, 2018, Judge Scott issued a Report and Recommendation ("R&R"), finding that the defendant's motion should be granted. Docket Item 23. The parties did not object to the R&R, and the time to do so now has expired. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a de novo review of those portions of a magistrate judge's recommendation to which a party objects. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72

requires a district court to review the recommendation of a magistrate judge to which no objections are raised. See *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

Although not required to do so in light of the above, this Court nevertheless has reviewed Judge Scott's R&R as well as the plaintiff's submission opposing the motion for summary judgment. Based on that review and the absence of any objections, the Court accepts and adopts Judge Scott's recommendation to grant the defendant's motion for summary judgment.

For the reasons stated above and in the R&R, the defendant's motion for summary judgment, Docket Item 18, is GRANTED; the complaint, Docket Item 1, is dismissed; and the Clerk of the Court shall close the file.

SO ORDERED.

Dated: August 13, 2018
Buffalo, New York

s/Lawrence J. Vilardo
LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE